

PUEBLO LIQUOR & BEER LICENSING BOARD
MINUTES -- REGULAR MEETING
CITY HALL -- COUNCIL CHAMBERS
JUNE 15, 2011 – 6:00 P.M.

The Pueblo Liquor & Beer Licensing Board convened the Regular Meeting of June 15, 2011 at 6:00 p.m., with Vice-Chair Doris Harrison presiding.

ROLL CALL

Present: Board Members Don DiFatta, Doris Harrison and Tom Rose. Absent: Board Members Mike Ferris and Ralph Scaplo. Also Present—Assistant City Attorney Bob Jagger and Deputy City Clerk Lori Bravo-Neff.

APPROVAL OF MINUTES

Mr. Rose, seconded by Mr. DiFatta, moved to approve the minutes of the Regular Meeting of June 1, 2011. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion carried unanimously.

CONSENT AGENDA

- 1 HOTEL & RESTAURANT LIQUOR LICENSE APPLICATIONS-RENEWALS-TOTAL OF 3 APPLICATIONS**
J.M.A. Nacho's Inc. d/b/a Nacho's Restaurant, 409 N. Santa Fe Avenue
J.M.A. Nacho's Inc. d/b/a Nacho's Restaurant @ Elmwood, 3406 Thatcher Avenue
Mi Pueblito Mexican Grill, Inc. d/ba Mi Pueblito, 1305 E. Routt Avenue
- 2 TAVERN LIQUOR LICENSE APPLICATION-RENEWAL-GUS' PLACE, LLC D/B/A GUS' PLACE, 1201 ELM STREET**
- 3 RETAIL LIQUOR STORE LIQUOR LICENSE APPLICATION-RENEWAL-EZEQUIEL NAVA D/B/A ZEKE'S LAKE AVENUE LIQUOR, 2601 LAKE AVENUE**
- 4 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE – THE BISHOP OF PUEBLO, A CORPORATION SOLE, D/B/A ST. FRANCIS XAVIER CHURCH, 611 LOGAN AVENUE, EVENT MANAGER: PATRICIA J. MUNIZ (EVENT TO BE HELD JULY 29, 30 AND 31, 2011. ADDRESS OF EVENT: 1725 SPRUCE STREET)**
- 5 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR LICENSE – THE BISHOP OF PUEBLO, A CORPORATION SOLE, D/B/A MT. CARMEL CATHOLIC CHURCH, 421 CLARK STREET, EVENT MANAGER: KEVIN WALTER (EVENT TO BE HELD JULY 16 & 17, 2011. ADDRESS OF EVENT: 400 BLOCK ON CLARK STREET)**

VOTE ON CONSENT AGENDA ITEMS:

Mr. DiFatta, seconded by Mr. Rose, moved to approve the Consent Agenda as read into the record. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion carried unanimously.

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**6 NEIGHBORHOOD SURVEY: NEW HOTEL & RESTAURANT LIQUOR LICENSE– VZ2,
LLC D/B/A TONI & JOE’S PIZZERIA, 106 COLORADO AVENUE**

Neighborhood Surveyor Don Vest, 516 Lincoln was sworn in and presented to the Board the demographics and map of the defined neighborhood for issuance of a new hotel & restaurant liquor license for premises to be known as *Toni & Joe’s Pizzeria*.

Mr. Rose, seconded by Mr. DiFatta, moved to accept the survey and set the hearing for July 6, 2011. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion carried unanimously.

**7 SPECIAL EVENTS PERMIT APPLICATION-BEER, WINE & SPIRITUOUS LIQUOR
LICENSE – CENTER FOR AMERICAN VALUES, INC., MAILING ADDRESS: 101 S.
MAIN STREET, SUITE 100, EVENT MANAGER: PATRICIA ROONEY (EVENT TO BE
HELD AUGUST 6, 2011. ADDRESS OF EVENT: MAIN STREET FROM D STREET TO
RICHMOND AVENUE, GRAND AVENUE FROM UNION AVENUE TO SANTA FE
AVENUE, RICHMOND AVENUE FROM MAIN STREET TO ALLEY AND RIVERWALK
AREA WITHIN)**

Event Manager Patricia Rooney, 11 Swift Arrow Court was sworn in and answered questions from the Board. Ms. Rooney explained the application for this event was made for the “911-We Remember to Never Forget” event and stated this is the first time this event has been held in Pueblo. Ms. Rooney stated she will be responsible for supervising the event and there will be 3 trailers brought in from Budweiser. Ms. Rooney stated there will be 10 persons selling/serving liquor at each station; she described approved forms of I.D. and explained their policy for checking the age of their patrons will be to check everyone who appears to be under the age of 30 and once their proper age is determined, they will be given a wristband. Ms. Rooney stated they are working on a contract with TNT Security to maintain order on the licensed premises. Interim Police Chief Luis Velez, Fire Chief Chris Riley, 11 officers and volunteers will also be assisting in maintaining order. Alcohol will not be allowed to be taken off the licensed premises which will be secured by 8’ metal barricades. There will be a 2-drink limit per purchase for each patron.

Mr. DiFatta, seconded by Mr. Rose, moved to approve this application for a Special Events Permit. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion passes unanimously.

**8 TAVERN LIQUOR LICENSE/CABARET LICENSE APPLICATION-RENEWAL-OSWALDO
GUTIERREZ MONTOYA D/B/A PLANET 86, 215-223 E. NORTHERN AVENUE**

Owner Oswaldo Gutierrez Montoya, 6915 Boysenberry Way, Colorado Springs, CO was sworn in and answered questions from the Board. Present with Mr. Gutierrez-Montoya was his landlord, Eduardo Navarro, 1503 Lake Avenue, was also sworn in.

The Board briefly questioned Mr. Gutierrez Montoya about the status of his business as it relates to his liquor license. Mr. Gutierrez Montoya explained that *Planet 86* has not been open for business but he has allowed Mr. Navarro d/b/a King Taco to use Planet 86’s liquor license. Mr. Navarro stated when Mr. Gutierrez Montoya first obtained his liquor license, the entire building was licensed including the second floor but now, alcohol is only served on the main level. Mr. Jagger explained to Mr. Navarro that only the licensee is authorized to sell/serve alcohol on the licensed premises. Vice-Chairwoman Harrison explained that she was going to make a motion that this matter be continued so that the Police Department can conduct an investigation.

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Ms. Harrison, seconded by Mr. DiFatta moved to continue this matter until additional information from the Police Department is obtained. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion passes unanimously.

9 PERMIT APPLICATION & REPORT OF CHANGES- MODIFICATION OF PREMISES—HOTEL & RESTAURANT LIQUOR LICENSE-ANGELO'S PIZZA PARLOR & A MORE' D/B/A ANGELO'S PIZZA PARLOR AND-A-MORE', 105 E. RIVERWALK

Note: Due to the absence of the licensee, this item was moved to the end of the agenda.

10 HEARING: TRANSFER OF OWNERSHIP APPLICATION: TAVERN LIQUOR LICENSE—JOSEPH J. TRUJILLO D/B/A PIXIE INN, 440 S. SANTA FE AVENUE (CURRENTLY LICENSED TO KIM L. GRIFFITH D/B/A PIXIE INN, LICENSE EXPIRES JULY 25, 2011)

New owner, Joseph J. Trujillo, 1007 Ruppel was sworn in and answered questions from the Board. The moral character of Mr. Trujillo was satisfactory to the Board. Mr. Trujillo has previously worked for the previous owner of this establishment for 14 years and stated they never had a violation. There are no silent partners or financial backers not disclosed in his application. Mr. Trujillo stated the only funds he has had to spend or will spend to enter into possession of the premises are the licensing fees and rent. He currently employs 1 other employee in addition to himself and will conduct background investigations on potential employees. Mr. Trujillo described approved forms of identification and explained that they will check all ID's at the door, and if the patron is 21, they will be given a wristband. Mr. Trujillo also stated that anyone who is not 21 years of age, will be marked with two back "X's". He stated on the weekends he will have a doorman and will hire security guards for "special events." Mr. Trujillo stated he and his employees will attend a Liquor Awareness class and was given a copy of the 2011 class schedule.

For the record, it was determined that there was no one present in opposition to this transfer of ownership.

Mr. DiFatta, seconded by Mr. Rose, moved to approve the transfer of ownership. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion passes unanimously.

11 HEARING: TRANSFER OF OWNERSHIP APPLICATION: CABARET LICENSE—JOSEPH J. TRUJILLO D/B/A PIXIE INN, 440 S. SANTA FE AVENUE (CURRENTLY LICENSED TO KIM L. GRIFFITH D/B/A PIXIE INN, LICENSE EXPIRES JULY 25, 2011)

Vice-Chairwoman Harrison stated the Board would take administrative notice of the testimony given in Item #10.

For the record, it was determined there was no one present in opposition to this Transfer of Ownership.

Mr. DiFatta, seconded by Mr. Rose, moved to approve the Transfer of Ownership of the Cabaret License. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion passes unanimously.

12 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE- LA PALMA NIGHTCLUB, LLC D/B/A LA PALMA, 2506 LAKE AVENUE, (POLICE CR# 11-8570, VIOLATION DATE: MAY 8, 2011)

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Owner Maria Perez, 3521 Larch Place was sworn in.

Also present, Conflict Counsel/Assistant City Attorney Kurt G. Stiegelmeier. Mr. Stiegelmeier explained that he would like to consolidate three pending cases which are: the May 7th violation-CR#11-8498; this violation (dated May 8th-CR#11-8570) and the May 28th violation-CR#11-10012. Mr. Stiegelmeier explained that he would like to present to the Board a proposed stipulation and summarized the details contained in the stipulation. The proposed stipulation was for a total of 14 days: 7 days held in abeyance for 1 year and 7 days served. The suspensions would be served on 3 consecutive weekends as follows: 2 days the first weekend; 2 days the second weekend and 3 days the 3rd weekend. Ms. Perez stated she agreed to the stipulation and that she had signed it. The Board asked Ms. Perez what steps she would take to prevent violations from occurring and Ms. Perez reviewed with the Board what those precautions are which would include hiring more security to watch the entrances/exits as well as placing wristbands on patrons who are not of legal age to consume alcohol. She also explained she had picked up an application to modify the premises. The Board also strongly encouraged Ms. Perez to attend a liquor awareness class. She was provided with a 2011 class schedule.

Mr. DiFatta, seconded by Mr. Rose, moved to accept the written stipulation. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion passes unanimously.

13 COMMUNICATION FROM INTERIM CHIEF OF POLICE LUIS VELEZ RE: ALLEGED LIQUOR CODE VIOLATION-TAVERN LIQUOR LICENSE- CARL F. RODRIGUEZ D/B/A LITTLE JOE'S, 2430 LAKE AVENUE, (POLICE CR# 11-9396, VIOLATION DATE: MAY 20, 2011)

Owner Carl F. Rodriguez, 214 Quincy, was sworn in. Mr. Rodriguez acknowledged receipt of the police communication from the City Clerk's Office. Vice-Chairwoman Harrison explained to Mr. Rodriguez that it is up to the Board to make a determination of whether or not there is probable cause that a violation occurred and whether or not the matter will be set for a hearing.

Mr. DiFatta, seconded by Mr. Rose, moved there is probable cause that a violation occurred on both counts and moved to set the matter for hearing. Roll Call: Ayes—DiFatta, Harrison, and Rose. Motion carried unanimously.

Mr. Rodriguez stated he wished to stipulate to Count 2: removal of alcohol from the licensed premises and requested the Board consider dismissing Count 1-failure to display liquor license.

Mr. DiFatta, seconded by Mr. Rose, moved to accept Mr. Rodriguez' stipulation to dismiss Count 1 and to stipulate to Count 2. Roll Call: Ayes—DiFatta, Harrison, and Rose. Motion carried unanimously.

He was given the opportunity to present any mitigation he would like the Board to consider. Mr. Rodriguez stated that he had momentarily stepped away from the bar to get ice from the kitchen area and it is at that point in time that the person removed alcohol. He explained he was working alone on this night, but does closely watch the patrons. Board member Rose also advised Mr. Rodriguez that the police can enter his premises when deemed necessary and stated that it was reported that he was less than cooperative with the police. Mr. Rodriguez stated he felt that the officer needed to get his permission to be behind the bar and Mr. Rose reiterated that during routine bar checks, he must cooperate with the police.

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Re: the Sanction:

Mr. DiFatta, seconded by Mr. Rose, moved for 5-days suspension with 2 days served and 3 days held in abeyance for 1 year. Roll Call: Ayes—DiFatta, Harrison, and Rose. Motion carried unanimously.

Mr. Jagger read the proposed Findings and Order into the record for the Board's consideration.

Mr. DiFatta, seconded by Mr. Rose, moved to accept the Findings and Order as read. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion carried unanimously.

14 HEARING RE: ALLEGED LIQUOR CODE VIOLATION- TAVERN LIQUOR LICENSE: CAVEMAN'S MAIN EVENT, INC. D/B/A ONE EYED JACK'S SALOON, 211 W. NORTHERN AVENUE, (POLICE CR#11-6515, VIOLATION DATE: APRIL 9, 2011)

Owner Bruce Plascencia, 1902 E. 5th Street was sworn in.

Assistant City Attorney Kurt G. Stiegelmeier as Conflicts Counsel on behalf of the Police Department, entered his appearance. Mr. Stiegelmeier requested that the Board sequester Mr. Plascencia's witnesses. Mr. Jagger explained the sequestration order to the witnesses and asked that they wait outside the room until called. The witnesses were also instructed not to discuss their testimony.

Officer Thomas DeCesaro, 200 S. Main Street was sworn in and was questioned by Mr. Stiegelmeier regarding the events that had taken place at the establishment at 2:18 a.m. on April 9, 2011. Officer DeCesaro explained in detail what transpired when he and 3 other officers: LaConte, Heflin and West, were dispatched to the establishment after it was reported that Caveman's was serving after-hours. He stated when he looked through the glass-block windows, he was able to determine there were 6-8 people inside and these individuals appeared to be drinking. Officer DeCesaro explained the door to the establishment was locked and he knocked for several minutes before someone finally answered it however, right before the door was open he heard what sounded like glass being broken. Officer DeCesaro stated that once the door was open, he saw males running out the back door. He also stated that there were two bartenders in the bar, identified as Marquisa Martinez and Jenna Martinez. Officer DeCesaro stated both Bruce and Casey Plascencia were intoxicated.

The Board also questioned Officer DeCesaro. Mr. Plascencia stated he did not have any questions for the officer. Mr. Stiegelmeier then rested the City's case.

Mr. Plascencia was next to give testimony to the Board. Mr. Plascencia stated he has been in the bar business for over 18 years and gave his detailed version of the events on this night. Mr. Plascencia stated Officer Hernandez was in his establishment the next day and was in agreement with him and stated that you cannot see through the glass block window. Mr. Stiegelmeier clarified there is not an Officer Hernandez employed by the Pueblo Police Department. Mr. Plascencia stated that he thought the officer's name was Hernandez. Mr. Plascencia submitted photos of his establishment and explained why he believed they were relevant to this case. Mr. Stiegelmeier had no objection to the photos being submitted as part of the record.

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The photos were marked as follows:

- Exhibit 1 – a photo of the front door of the establishment
- Exhibit 2 – a photo of the outside door of the establishment
- Exhibit 3 – a photo depicting the distance and length of the bar of the establishment
- Exhibit 4 – a photo near to the DJ room and the restrooms of the establishment
- Exhibit 5 – a photo of the glass block window of the establishment
- Exhibit 6 – a photo of the outside of the glass block window of the establishment

The Board reviewed the photos submitted by Mr. Plascencia. Mr. Plascencia also had a punch-card from a recycling center as proof that he recycles all the glass bottles and that they were putting the empty bottles in the recycle bin and surmised that this is what Officer DeCesaro heard when he stated he heard glass breaking. He stated they were not trying to get rid of the bottles. Mr. Stiegelmeier and the Board also questioned Mr. Plascencia. With no further questions, Mr. Plascencia then called his witness, Casey Plascencia to testify.

Casey Plascencia, 1902 E. 5th Street was sworn in and answered questions from Mr. Plascencia. Ms. Plascencia gave her detailed version of the events on this night. Ms. Plascencia stated she was training two new bartenders on this particular night and that they were cleaning up when the police arrived. She stated they were going through the recycle bins sorting the glass bottles and stated this is what the officer heard. Ms. Plascencia also stated there was no one else in the bar other than herself, Bruce Plascencia and the two bartenders (Marquisa Martinez and Jenna Martinez). She also stated that the back door is barricaded and it is not possible to exit through this door and that no one ran out the back door. Mr. Stiegelmeier and the Board also questioned Ms. Plascencia.

With no further witnesses or questions, Mr. Stiegelmeier recalled Officer DeCesaro for rebuttal. Officer DeCesaro also answered questions from the Board. Mr. Plascencia did not have any additional questions for the officer.

Mr. Stiegelmeier then rested the City's rebuttal and gave closing statements.

Mr. Rose, seconded by Mr. DiFatta moved that a violation did occur. The Board held a brief discussion and with all comments heard, cast their votes.

Roll Call: Ayes—Harrison and Rose. Nays: DiFatta. Motion passed on a vote of 2-1.

Mr. Stiegelmeier suggested to the Board that the imposed sanction should be 6 days closed: 3 days served, 3 days held in abeyance for 1 year.

Mr. Plascencia was given an opportunity to present mitigation for the Board's consideration.

Mr. Rose, seconded by Mr. DiFatta, moved for 5 days suspension: 2 days served, 3 days held in abeyance for 1 year. Roll Call: Ayes—DiFatta, Harrison, and Rose. Motion carried unanimously.

Mr. Jagger read the proposed Findings and Order into the record for the Board's consideration.

Mr. Rose, seconded by Mr. DiFatta, moved to accept the Findings and Order as read. Roll Call: Ayes—DiFatta, Harrison and Rose. Motion carried unanimously.

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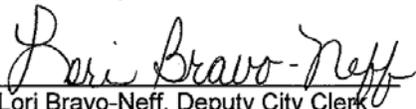
**9 PERMIT APPLICATION & REPORT OF CHANGES- MODIFICATION OF PREMISES—
HOTEL & RESTAURANT LIQUOR LICENSE-ANGELO'S PIZZA PARLOR & A MORE'
D/B/A ANGELO'S PIZZA PARLOR AND-A-MORE', 105 E. RIVERWALK**

The licensee was still not present on behalf of this matter

Ms. Harrison, seconded by Mr. Rose moved to continue this matter to July 6, 2011. Roll Call:
Ayes—DiFatta, Harrison and Rose. Motion carried unanimously.

ADJOURN – With no further business to conduct, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,


Lori Bravo-Neff, Deputy City Clerk
City Clerk's Office